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Michigan moves to further protect victims of domestic violence

LANSING – Previous statements made by victims of domestic violence are now admissible in court proceedings as a result of legislation sponsored by Senator Beverly Hammerstrom, R-Temperance, and approved by the governor.

Senate Bill 263 addresses the so-called “hearsay” rule which does not allow previous statements to be used as evidence against a defendant. For example, in domestic violence cases, victims’ statements to police or other emergency responders are not admissible as evidence of the alleged abuse. These statements are especially important in circumstances when the victim is not available or unwilling to testify.

“The scars from domestic violence remain long after the bruises and cuts heal. Emotional trauma can cause extreme fear for victims of domestic violence and, ultimately, prevent the victim from facing their attacker in court,” Hammerstrom said. “And, in some cases, the victims did not survive the abuse. Their previous statements in regard to the physical attack become crucial in the case against the offender.”

Hearsay is “second-hand” information, and occurs when a witness testifies about something someone else told them or said they saw – not what the witness themselves actually saw or heard. Usually, hearsay involves an attempt to get some crucial fact entered into evidence that cannot be entered into evidence by any other means.

Michigan Court Rules govern the use of hearsay and determine when hearsay can be admitted as evidence. The new law creates another exception to the general rule in regard to hearsay evidence.

The hearsay exception is allowed if all of the following apply:

- The statement narrates, describes, or explains the threat or infliction of physical injury on the person who made the statement;
- The criminal action in which the evidence is offered involves domestic violence;
- The statement was made near the time of the infliction or threat of physical injury;
- The statement was made in circumstances indicating the statement’s trustworthiness; and
- The statement was made to a law enforcement official.

The prosecution is required to disclose evidence to the defendant, including a witness statement or a summary of testimony expected to be offered, at least 15 days prior to the date of the trial.

“Victims of domestic violence need every tool available to confront their attackers and help put them where they belong – behind bars,” said Hammerstrom, vice-chair of the Senate Committee on Families and Human Services. “I hope this new law will help victims step out of the shadows of domestic violence and live without fear.”

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